

ST 03-0171-GIL 11/05/2003 MANUFACTURING MACHINERY & EQUIPMENT

The manufacturing machinery & equipment exemption includes machinery and equipment used in the general maintenance or repair of exempt machinery and equipment. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

November 5, 2003

Dear Xxxxx:

This letter is in response to your letter dated June 30, 2003 and correspondence received September 5, 2003 in which you request information. Your letter requests that the Department respond with a Private Letter Ruling. The Department has declined to issue a Private Letter Ruling. The Department is providing you with the following General Information Letter. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

On behalf of our client, the Illinois based-company identified above, we are writing to request a Private Letter Ruling regarding eligibility for the manufacturing machinery & equipment exemption certificate under Illinois Department of Revenue Regulations part 130, section 130.330.

The company mentioned above performs the following activities: They receive broken motors that are used in the manufacturing process, typically in automated machine tools, packaging machines, food processing applications, robots, etc. They evaluate the motors to determine the problem and then perform some or all of the following operations:

- 1) Disassemble the motor and clean all the component parts.
- 2) Test and check each component to determine if it is within specification for a new part or operating correctly.
- 3) Remove the failed windings and make new ones using the old ones as a sample, or according the motor manufacturer's instructions.

- 4) Re-machine components that are out of tolerance.
- 5) Dynamically balance rotating components.
- 6) Replace failed components that cannot be re-conditioned.
- 7) Reassemble and test the motors.
- 8) Paint the motor so that it appears as it did when it was new.

Basically, they develop product repair procedures for specialty electric motors. They mainly do repair/servicing work for manufactures. We do understand that they aren't manufacturers. However, my client's customers are manufactures that all are exempt under the manufacturing machinery & equipment exemption. Customers supply my client with their own M & E exemption certificate. We are writing because the equipment my client is purchasing from out-of-state businesses is equipment that is solely used to repair machinery and equipment that is used in the manufacturing process and that is exempt under the M & E exemption. To further explain, we feel our client might be entitled to this M & E exemption certificate and would not have to pay use tax on these purchases because of this regulation listed below:

Illinois Department of Revenue Regulations
Title 86, Part 130, Section 130.330 Manufacturing Machinery and Equipment

Under paragraph (c)(2) it states as follows: 'Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process: **including, machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture or exempt machinery and equipment.**'

Because we can't interpret the law, we are asking for a private letter ruling to determine if my client needs to pay a use tax on the purchases of the machinery and equipment they use in their process to repair machinery and equipment that is used by their customers in manufacturing that is exempt from sales and use tax.

Your prompt response in this very important matter would be appreciated. Thank you.

DEPARTMENT'S RESPONSE:

As you have noted in your letter, subsection (c)(2) of 86 Ill. Adm. Code 130.330 states:

Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process: *including, machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment.*

Section 130.330 of the Department's administrative rules are also incorporated by reference in subsection (o) of 86 Ill. Adm. Code 140.125 regarding exemptions from Service Occupation Tax. Machinery and equipment used primarily to repair exempt manufacturing machinery and equipment will qualify for the manufacturing machinery and equipment exemption under either the Retailers' Occupation Tax Act or Service Occupation Tax Act. Please note that the machinery and equipment must be used "primarily" (over 50%) in repair of exempt manufacturing machinery and equipment.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk